



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

SMC

Docket No: 04995-00

20 October 2000

G [REDACTED] USMC

Dear Gunnery Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested removal of the fitness report for 20 May to 5 June 1996.

It is noted that the Commandant of the Marine Corps (CMC) has modified the contested fitness report by removing the last sentence from the third sighting officer's comments: "Finally, my decision to relieve this Marine was prompted by a pattern of questionable judgment calls which materially affect his effectiveness as an 8511!"

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 14 July 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice warranting complete removal of the contested fitness report. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Your having been permitted to continue working with the officer candidates did not prove the contested fitness report was erroneous or unjust. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new

and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

4995-00

IN REPLY REFER TO:
1610
MMER/PERB
14 JUL 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
GUNNERY SERGEANT [REDACTED] USMC

Ref: (a) GySgt [REDACTED] DD Form 149 of 26 Apr 00
(b) MCO P1610.7D

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 12 July 2000 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 960520 to 960605 (CD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the report is totally unfair; that he never violated the Standard Operating Procedures (SOP) for Officer Candidate School (OCS) as alleged. To support his appeal, the petitioner furnishes a copy of the fitness report, a statement from the Reporting Senior, and his rebuttal statement.

3. In its proceedings, the PERB concluded that, with one minor exception, the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. When [REDACTED] authored the fitness report at issue, he specifically stated that the petitioner had been relieved for cause as a Sergeant Instructor and identified the exact portion of the Officer Candidate School Order which had been violated. The commission of said violation was reinforced by both the Reviewing Officer and Third Sighting Officer. In fact, in his Third Sighting commentary, Colonel [REDACTED] specifically indicated it was his decision to relieve the petitioner. For Major [REDACTED] to recant the validity/accuracy of the evaluation to the President of the Remedial Board is viewed as questionable at best, since the information he provides counters what was recorded by not only himself, but the two other officers involved in the performance evaluation cycle.

b. The comments made by the Third Sighting Officer lend great insight into what occurred and place the entire situation into it's proper perspective. However, in the Board's

(3) PERB

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estimation, the final sentence adds new and adverse material not surfaced earlier. As such, the petitioner should have been afforded the opportunity to acknowledge and respond to Colonel [REDACTED] statements. That fact notwithstanding, the Board does not find that removal of the complete report is warranted, or for that matter, removal of the entire Third Sighting Officer's page. Instead, the Board has directed elimination of only the final sentence from the Standard Addendum Page completed by Colonel [REDACTED] 30 July 96 (to wit: "Finally, my decision to relieve this Marine was prompted by a pattern of questionable judgment calls which materially affect his effectiveness as an 8511!").

4. The Board's opinion, based on deliberation and secret ballot vote, is that the report, as modified, should remain a part of Staff Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps